

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA	:	
	:	
v.	:	1:23CR236-1
	:	
ERNEZ TOMAZ AUSTIN, also known	:	
as “Nez Sheisty” and “Oda Nez”	:	

FACTUAL BASIS FOR A GUILTY PLEA

NOW COMES the United States of America, by and through Sandra J. Hairston, United States Attorney for the Middle District of North Carolina, and states that the factual basis for a guilty plea is as follows:

*I. Erneze Tomaz Austin calls in bomb threats to a reproductive health clinic on two separate days, five days apart, using his brother T.A.’s cell phone, to prevent a patient there from receiving reproductive health care services.*

On February 17, 2023 and February 22, 2023, Erneze Tomaz Austin (Erneze) called in bomb threats to the Planned Parenthood Chapel Hill Health Clinic (PP-CHHC), located in Chapel Hill, North Carolina. PP-CHHC is a reproductive health clinic that provides a variety of services, including abortions, both pill and surgical.

A. The February 17, 2023 threat call

Erneze called in the first threat on Friday, February 17, 2023, at approximately 11:23 a.m. EST, using telephone number ending 7656. A PP-

CHHC medical answering service called Southern Voices (SV), telephone number ending 6924, received and recorded the call.

SV representative: Good Morning Planned Parenthood South Atlantic. Let me ask you a few questions so I can direct your call. Is this regarding a procedure you had within the last thirty days?

Ernez: Um, I was calling uh this is Planned childhood in Chapel Hill, right?

SV representative: Uh correct

Ernez: Okay, I was calling to tell you that some people on the way with some bomb threats. They said they was comin' to blow it up because they didn't believe in abortion. And I overheard them talkin' while I was walkin' at the park and I was just trying to get you information so y'all can get everyone away from there.

Ernez said that his name was "Jonathan Jacobs" and gave the telephone number 919-236-8185 for further contact.

After receiving this call, the representative relayed the threat to the clinic, which activated its bomb threat procedures. Specifically, the clinic called the Chapel Hill Police Department (CHPD) and evacuated its patients and personnel to the adjacent parking lot. Approximately fourteen patients were evacuated, including four who had already received medication, one of whom was taken out of the building in a wheelchair by nurses. The clinic's medical professionals monitored all four. Protestors stationed in front of the building harassed the fourteen patients, yelling at them. Law enforcement brought

bomb sniffing dogs into the location, and it was cleared. After approximately thirty minutes, the patients and staff returned to the clinic. Ten of the patients' procedures were rescheduled. The four patients who had already received medication underwent their procedures. PP-CHHC was then closed for the day.

One of the patients whose procedure was rescheduled was an associate of Erne's, Patient-1.

B. The February 22, 2023 threat calls

Erne made another call on February 22, 2023 at 10:23 a.m. EST, using telephone number 704-565-1969. The PP-CHHC call center in Charlotte received and recorded the call. The number called, ending 7762, was a number provided on the PP-CHHC website and available through the Google internet search engine. PP-CHHC also provided this number on the paperwork given to its patients after an abortion.

PP Call Center Representative: Planned Parenthood ... speaking how may I help you?

Erne: Um is this Chapel Hill?

PP Call Center Representative: Yeah so this is the call center for a few different locations ... we do cover Chapel Hill as well.

Erne: Um ...well I'm callin' to tell you that [unintelligible] had a bomb threat at Chapel Hill the other day. Remember they had that bomb threat at Chapel Hill the other day.

PP Call Center Representative: Um, I do remember hear something going on a lockdown, I wasn't sure the specifics.

Ernez: Uh well they talk to the police last time y'all stopped me. I'm on my way back today its over with. Y'all should be callin' the police. So tell them that I am coming today. I was coming to blow it up last time till y'all called the police. I'm on the way back nobody in Chapel Hill is safe.

Ernez made the second February 22, 2023 bomb threat call at approximately 11:46 a.m. EST, using telephone number 919-893-9650. This call was received and recorded by SV, at telephone number ending 6924.

SV representative: Good morning Planned Parenthood South Atlantic. I need to ask you a few questions so I can direct your call ... Have you had a procedure within the last thirty days?

Ernez: No ... Are you Chapel Hill?

SV representative: Uh it's a bunch of different offices. Yes, Chapel Hill is one of those offices that I answer for.

Ernez: Tell the police [unintelligible] can't save 'em we fixin' blow it up ... The Chapel Hill police can't save 'em we fixin' blow that shit up today.

After both bomb threat calls, the Call Center and SV notified PP-CHHC of the threat and PP-CHHC activated its bomb threat procedures. Officers with the CHPD arrived with bomb-sniffing dogs. Security and management of PP-CHHC decided not to evacuate the clinic or stop their patient services.

*II. Electronic evidence leads agents with the FBI to one apartment in Laurinburg and the three men who live there, including Erneze and T.A.*

Agents with the Federal Bureau of Investigation (FBI) opened an investigation into the threats. Through that investigation, FBI agents learned that all three phone numbers involved in the threats (919-459-7656, 704-565-1969, and 919-893-9650) were registered to TextNow, Inc. and used the same Internet Protocol (IP) address, 174.110.190.127, to make the threat calls. This IP address resolved, via Charter Communications subscriber records, to an address in Laurinburg, North Carolina.

Investigators reviewed Accurant records, which linked this address, an apartment, to the defendant and his two brothers: T.A. and Brother-2.<sup>1</sup> Non-medical patient information from PP-CHHC from December 1, 2022 through March 2, 2023 included only one patient from Laurinburg, North Carolina; this patient, Patient-1, received service on February 22, 2023. Patient-1 had an appointment at PP-CHHC on February 17, 2023 that was rescheduled due to the threat. Patient-1's appointment was rescheduled to February 22, 2023, the date of the second and third threats. Patient-1 came to the appointment on

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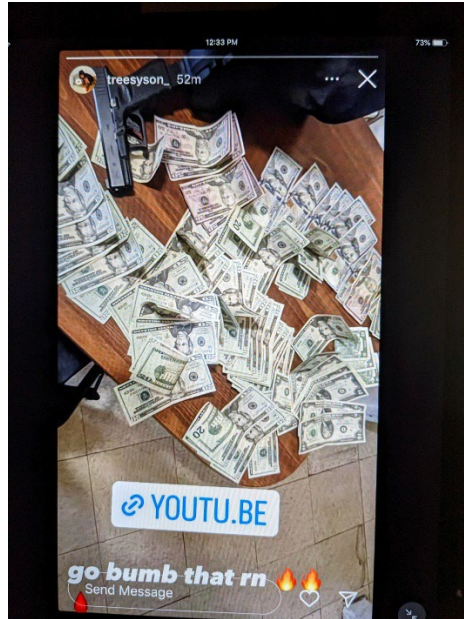
<sup>1</sup> Erneze and Brother-2 made statements to their supervising probation officers confirming the familial relationships, and social media records for both men confirmed them.

February 22, 2023 but did not complete the full appointment. Social media records related to Ernez and Patient-1 confirmed that they knew one another.

A. The investigation expands to Ernez's unlawful possession of firearms.

Ernez was a convicted felon. Specifically, he pled guilty to felony Aiding or Abetting Flee to Elude (20 CRS 51949), in Scotland County Superior Court on March 24, 2021. Ernez signed a plea transcript confirming his understanding that the felony was punishable by a term of imprisonment exceeding one year.

Investigators reviewed the publicly-available account of Instagram user ID @treesyson\_, user name "BIG APE" and determined that it belonged to Ernez, based on photographs and videos featuring him. On March 31, 2023, the Instagram user ID @treesyson\_ posted a picture on his story showing a black handgun and pile of U.S. currency on a table. The caption stated, "go bumb that rn" with two fire emojis as shown below.



On April 21, 2023, investigators again reviewed and saved the @treesyson\_ account. They saw three videos that were posted, which included Erneez with multiple types of weapons. Another Instagram story posted by this account on or around April 20, 2023, showed Erneez facing the camera with a white tank top and jeans pointing two handguns at the camera. The caption read, “PointGuard” with a blood emoji as shown below.



Brother-2 was also a convicted felon. Despite their respective felony convictions, Ernez and Brother-2 messaged about and shared photographs and videos of themselves with firearms over social media.

Specifically, on November 28, 2022, Ernez, using Facebook account “Nez Sheisty” sent Brother-2 a video showing a man, similar in size and build to Ernez, shooting a handgun with a large capacity magazine into a pond (the person is facing away from the camera in the video). Brother-2 replied approximately forty minutes later, “Don’t sale [sic] dat [sic] shit.” On February 26, 2023, Ernez, using Facebook account “Nez Sheisty” sent Brother-2 the following message: “My Glock plug prolyl [sic] di ill [sic] hit him at 10 when he get off.”

B. Agents with the FBI Search the Laurinburg Apartment.

On May 5, 2023, officers with the Laurinburg Police Department (LPD) and FBI personnel searched the Laurinburg apartment pursuant to a federal premises warrant. In the course of the search, federal agents seized an American Tactical OMNI Hybrid, .300 Blackout AR-Pistol, Serial Number NS303549 (manufactured in South Carolina). The AR-Pistol was equipped with a fully-loaded large capacity magazine and had a round chambered. The AR-Pistol was located in the underlining of a small couch in the third bedroom. They also seized T.A.'s cell phone, where they found multiple video and photo files of Erneez with firearms.

Specifically, they found a video file, dated April 18, 2023, wherein Erneez and T.A. fired an automatic weapon. FBI Special Agent Nye, a firearms expert, reviewed the file. In it, three men, including Erneez and T.A., fire rounds from a Glock handgun rendered automatic by the attachment of an auto-sear attached to the rear of the slide of the Glock handgun.

In the beginning of the video, Erneez approaches a wood line with a handgun to shoot. An unknown person, behind the camera, states, "Where the switch at?" Erneez replies, "On the other one." Based on his knowledge and experience, Special Agent Nye understood the term "switch" to reference an illegal auto-sear attached to the rear of the slide of a Glock pistol. This device

converts, through interruption of normal functioning of the firearm, a Glock pistol into a machinegun. In this instance, Special Agent Nye surmised, Ernez was confirming that the other pistol had the Glock switch attached. Below is a screenshot of Ernez firing the automatic handgun from the video file:



In the video, after Erneez fires the pistol, another man wearing a red shirt walks to the same wood line with a pistol in his hand that clearly has an attached “switch,” documented below (the metal piece just behind the shooter’s thumb is the offending item):



Once he finishes firing the Glock, this man hands it to T.A. The pictures show the switch on the rear of the Glock pistol’s slide:



T.A. then fires it. Below is a screenshot of Erneez filming T.A. firing the machinegun in the video file:



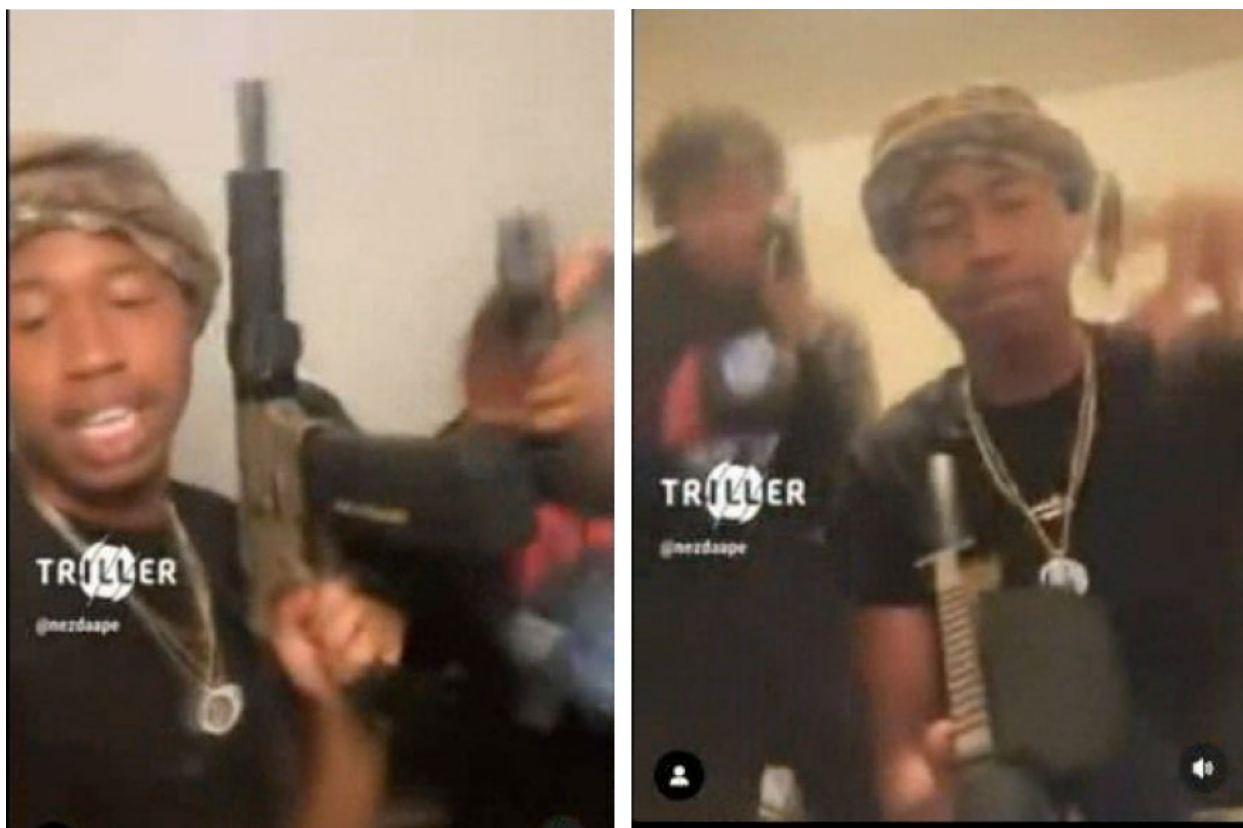
As referenced above, T.A.'s cell phone contained other photographs and videos of Erneez brandishing a firearm, as well, including the following:



Special Agent Nye reviewed these photographs and videos, as well as photographs of the American Tactical model OMNI Hybrid .300 blackout pistol, serial number NS303549, which agents with the FBI seized in the premises search of the Laurinburg apartment. A photograph of the firearm is featured below:



He determined that this is the same firearm that Erneez is brandishing in a video posted to his Instagram account:



According to returns produced by Meta, Inc. for this Instagram account, it was uploaded to the platform on April 19, 2023 at 01:15:46 UTC.

Special Agent Nye also determined that because this firearm was not manufactured in North Carolina, it moved in and thus affected interstate commerce prior to Ernez's possession of it on April 19, 2023.

III. *Information from T.A. Confirms that Ernez Made the Threat Calls to PP-CHHC.*

Agents with the FBI interviewed T.A. at LPD after the search of the Laurinburg apartment. T.A. said that on February 17, 2023, Ernez came into his room and asked for help in finding the number to Planned Parenthood. T.A.

did an internet search for it; electronic records confirm this. Indeed, an overwhelming amount of electronic evidence connects T.A.'s phone to the threat calls. Specifically, as referenced above, the TextNow numbers that made the threat calls were registered with the Google email address KKliik254@gmail.com. The KKliik254@gmail.com address was created on December 2, 2022 and used the IP address associated with the February 17, 2023 threat call on that same day. Block Inc. advised that this same email address was linked to a Cash App account in T.A.'s name at the Laurinburg address, using his registered telephone number. Further, while using the Cash App application, this Cash App account used IP address (174.110.190.127), the same IP address used during all three threat calls.

Google also provided multiple email addresses that were linked via cookie to Kkliink254, including mozya42@gmail.com. Cash App provided records related to mozya42@gmail.com. The email address was linked to a Cash App account in the name of Person-1 at the Laurinburg apartment, using T.A.'s registered telephone number. Further, while using the Cash App application, this Cash App account used IP address (174.110.190.127), the same IP address used during all three threat calls. Finally, Google provided websites visited and searches conducted in the account activity for Kkliink254@gmail.com. On February 17, 2023, at 4:27:19 PM UTC, 4:27:25 PM

UTC, 5:10:07 PM UTC and 5:10:11 PM UTC, the website for “Planned Parenthood – Chapel Hill Health Center” was viewed. The phrase “abortion clinic chapel hill” was also searched four times on February 17, 2023.

T.A. stated that Erneez then took T.A.’s cellular telephone to the other room to make the call. T.A. was aware that Patient-1 was pregnant and associated with Erneez. T.A. said, “basically the same thing” happened on February 23, 2023. Erneez came into T.A.’s room and asked to use his cellular telephone. Agents with the FBI played the three threat calls for T.A., who identified Erneez’s voice as the person making the threats. T.A. advised he heard Erneez make the second call from his room.

This the 2nd day of February, 2024.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on February 2, 2024, the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to counsel of record.

Respectfully submitted,

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